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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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LEQUANTE H.,

Plaintiff,

v.

MARTIN O'MALLEY, Commissioner of the  
Social Security Administration,

Defendant.

**REPORT AND RECOMMENDATION  
TO DENY MOTION TO PROCEED *IN  
FORMA PAUPERIS* (DOC. NO. 2)**

Case No. 2:23-cv-00924

District Judge Dale A. Kimball

Magistrate Judge Daphne A. Oberg

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Before the court is Plaintiff Lequante H.'s<sup>1</sup> motion to proceed *in forma pauperis* (without paying fees).<sup>2</sup> Under 28 U.S.C. § 1915, a federal court may authorize commencement of an action without prepayment of fees by a person who is unable to pay such fees.<sup>3</sup> To proceed *in forma pauperis* under section 1915, Ms. H. must show a financial inability to pay the required filing fee.<sup>4</sup>

Although Ms. H. reports she is unemployed, she reports her gross monthly income exceeds 200% of the Federal Poverty Guidelines based on her household size, and therefore she

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<sup>1</sup> Pursuant to best practices in the District of Utah addressing privacy concerns in certain cases, including social security cases, the court refers to Plaintiff by her first name and last initial only.

<sup>2</sup> (Doc. No. 2.)

<sup>3</sup> 28 U.S.C. § 1915(a)(1).

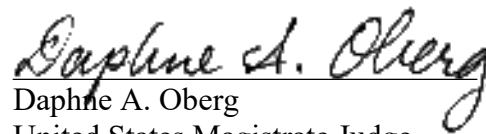
<sup>4</sup> *Lister v. Dep't of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005).

has not shown a financial inability to pay the required filing fee. Accordingly, the undersigned RECOMMENDS<sup>5</sup> the district judge DENY the motion.<sup>6</sup>

The undersigned further RECOMMENDS Ms. H be given thirty days in which to pay the filing fee. The court will send copies of this Report and Recommendation to Ms. H, who the court notifies of her right to object to it.<sup>7</sup> Ms. H. must file any objection to this Report and Recommendation within fourteen days. Failure to object may constitute waiver of objections upon subsequent review.

DATED this 17th day of January, 2024.

BY THE COURT:

  
Daphne A. Oberg  
United States Magistrate Judge

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<sup>5</sup> IFP status is generally denied through a report and recommendation issued by a magistrate judge. *See, e.g., Johnson v. Hertz Corp.*, No. 22-6092, 2022 U.S. App. LEXIS 29345, at \*2 (10th Cir. Oct. 21, 2022) (unpublished) (affirming IFP denial based on a magistrate judge's report and recommendation adopted by the district court).

<sup>6</sup> (Doc. No. 2.)

<sup>7</sup> *See* 28 U.S.C. § 636(b)(1); Fed R. Civ. P. 72(b).